

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DARNELL W. MOON,

Plaintiff,

VS.

PORTFOLIO RECOVERY
ASSOCIATES, LLC,

Defendant.

Case No. 4:23-cv-01195-MTS

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff’s Motion for Appointment of Counsel. Doc. [28]. A pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case. *Phillips v. Jasper Cnty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006). A district court may appoint counsel in a civil case if the court is “convinced that an indigent plaintiff has stated a non-frivolous claim . . . and where the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel.” *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018). When determining whether to appoint counsel for an indigent litigant, a court considers relevant factors such as the legal and factual complexity of the case, the ability of the pro se litigant to investigate the facts and present his claim, and the existence of conflicting testimony. *Phillips*, 437 F.3d at 794.

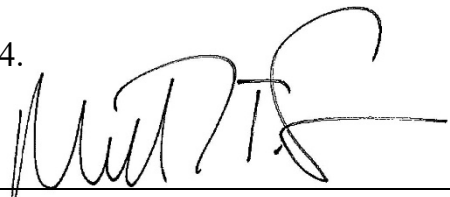
After considering these factors, the undersigned finds that Plaintiff has not shown the appointment of counsel is warranted. While Plaintiff has presented non-frivolous

allegations in his Complaint, Plaintiff had no trouble stating his claim. This case does not present legal or factual complexities. Plaintiff also asserts he needs counsel to assist him in this matter because he is incarcerated. “The Court has no doubt that litigating an action while incarcerated is more difficult than litigating one while at liberty. But Plaintiff chose to file his action when he did.” *Jeude v. City of St. Louis*, 4:22-cv-00989-MTS, 2023 WL 5507329, at *1 (E.D. Mo. Aug. 25, 2023). The incarcerated, like the unincarcerated, have no right to appointed counsel in civil cases. *See* M. Mushlin, *Rights of Prisoners* § 12:24 (5th ed.) (explaining prisoners have no right to counsel, except in criminal cases, where a defendant is entitled, as a matter of right, to trial counsel and to appellate counsel for the first criminal appeal). In any event, Plaintiff indicates his release from custody is imminent.

Because the Court concludes Plaintiff has not shown appointment of counsel would be appropriate in this case at this time,

IT IS HEREBY ORDERED that Plaintiff’s Motion to Appoint Counsel, Doc. [28], is **DENIED** without prejudice.

Dated this 13th day of September 2024.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE